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the DISTRICT dated November 20, 1961, as both are amended up to and including the date of this Agreement.

12. CLAIMS DISPUTE

In the event of dispute regarding interpretation or implementation of this Agreement, the Director of the Department of Water Resources and general managers of the DISTRICT and the AGENCY shall endeavor to resolve the dispute by meeting within 30 days after the request of a Party to this Agreement. If the dispute is unresolved, the Parties to this Agreement shall use the service of a mutually acceptable consultant in an effort to resolve the dispute. The fees and expenses of the consultant shall be shared equally by the Parties involved in the dispute. If a consultant cannot be agreed upon, or if the consultant's recommendations are not acceptable to the Parties, and unless the Parties otherwise agree, the matter may be resolved by litigation and any Party may at its option pursue any available legal remedy, including but not limited to, injunctive, and other equitable relief.

13. ASSIGNMENT OF AGREEMENT

Without the written consent of the STATE, AGENCY and DISTRICT, this Agreement shall not be assignable by the AGENCY or the DISTRICT in whole or in part.

14. MODIFICATION OF AGREEMENT

No modification of the terms of this Agreement shall be valid unless made in writing and signed by the Parties to this Agreement.

California Aqueduct, the pumpback water becomes available as part of the SWP supplies, and the AGENCY will not be charged for power resources for the pumpback water. As part of the SWP supply, the pumpback water will be subject to charges for power resources as though the water were conveyed from the Delta.

4. The power resources payment for Banks and Dos Amigos pumping plants under Paragraphs 8(b)(2) and 8(b)(3) above will be used to credit the DISTRICT.
- c. In addition to the charges identified above, the DISTRICT agrees to pay to the STATE any identified increase in non-power costs, as described in Article 56(c)(6) of the DISTRICT's long-term Water Supply Contract with the STATE, that would otherwise be borne by the SWP contractors not signatory to this Agreement or by the STATE as a result of activities pursuant to this Agreement.
- d. Payment terms shall be in accordance with the DISTRICT's and AGENCY's long-term water supply contracts with the STATE.
- e. Currently the Monterey Amendment Water Operations Workgroup is discussing policy issues related to storage programs such as the one proposed in this Agreement. If there is a change in policy requiring a contractor to pay a Use-of-Facilities charge for receiving conveyance service through reaches of the California Aqueduct not included in that contractor's Table B, the STATE may retroactively charge the DISTRICT for the Use-of-Facilities charge due in conjunction with the conveyance of the water under this Agreement.

6. RETURN WATER DELIVERED INTO AQUEDUCT

Return water pumped from the groundwater basin(s) within the AGENCY and returned to the California Aqueduct on behalf of the DISTRICT shall meet the STATE's water quality standards in effect when water is returned. Any turn-in facility used to return water to the Aqueduct must be authorized by a separate agreement with the STATE such as the Semitropic Turn-in Agreement.

7. STORED/RETURN WATER RECORDS

The DISTRICT shall certify to the STATE's State Water Project Analysis Office by January 31, 2000, the following information for 1999:

- a. The quantity of water delivered and stored under this Agreement.
- b. The quantity of stored water under this Agreement that will be available for return to the DISTRICT.

The STATE will maintain monthly records accounting for the delivery of the DISTRICT's SWP entitlement water and other water supplies delivered pursuant to this Agreement for storage in the groundwater basin(s) within the AGENCY and return water delivered from the AGENCY to the DISTRICT.

8. CHARGES AND CREDITS

The DISTRICT and AGENCY shall pay the following charges and/or receive the following credits, including all future adjustments, which shall be calculated in the same manner as charges and credits are calculated for SWP entitlement water deliveries and shall be in accordance with the provisions of the DISTRICT's and AGENCY's long-term Water Supply Contracts with the STATE. Charges shall be determined for the year the water is stored

annual entitlement deliveries do not exceed quantities on which the Proportionate Use-of-Facilities factors are based pursuant to its long-term Water Supply Contract with the STATE, unless the STATE determines that the deliveries will not adversely impact entitlement deliveries to SWP contractors or adversely impact SWP operations or facilities. The STATE shall not be obligated to convey storage or return water at times when such delivery would adversely impact SWP operations or facilities, other SWP contractors' water deliveries or costs, or delivery of SWP entitlement or other water supplies to the AGENCY.

- b. Delivery Schedules for Stored Water: As part of coordinating delivery schedules with the AGENCY, the DISTRICT shall submit a delivery schedule which shall include but not necessarily be limited to amounts, times, rates of delivery, and points of delivery to the AGENCY for review and approval. The AGENCY shall review the proposed schedule with the DISTRICT and as promptly as possible shall inform the DISTRICT of its decision to either approve, propose modifications, or withhold approval. The AGENCY agrees that it shall not arbitrarily withhold approval or propose unreasonable modifications. The AGENCY may deny approval of, or propose modification to, the DISTRICT's deliveries under this Agreement if, on the basis of a with and without analysis, the AGENCY determines that such deliveries would adversely impact the AGENCY's water management activities, finances, water supply or operations, and the DISTRICT does not agree to mitigate for such impacts. The base case (without analysis) shall be those conditions estimated to occur in the absence of the Zone 7/ST

AGREEMENT

The STATE approves delivery of a portion of the DISTRICT's 1999 SWP entitlement water, interruptible water and other water supplies for storage and later recovery in the groundwater basin(s) within the AGENCY in accordance with the Zone 7/ST Banking Program Agreement and under the following terms and conditions:

1. TERM

This Agreement shall become effective upon execution by all of the Parties. The delivery of water for storage in the groundwater basin(s) within the AGENCY under this Agreement shall be completed by December 31, 1999. This Agreement shall terminate with the delivery of all return water to the DISTRICT under this Agreement or December 31, 2035, whichever comes first, unless the Zone 7/ST Banking Program Agreement is fully terminated. In that event, this Agreement will be terminated on the same date as the termination of the Zone 7/ST Banking Program Agreement.

2. USE OF STORED WATER

SWP water delivered by the STATE on behalf of the DISTRICT under this Agreement will not be sold to the AGENCY but will be temporarily stored for later delivery to the DISTRICT's service area. The specific provisions for storage and recovery of the DISTRICT's water within the AGENCY are governed by the Zone 7/ST Banking Program Agreement. Article 4 of the Zone 7/ST Banking Program Agreement provides that 90 percent of the DISTRICT's water delivered to Semitropic for storage will be recoverable by the DISTRICT for use in its service area in future years unless it is determined that actual losses are different than the assumed 10 percent.

State of California
The Resources Agency
DEPARTMENT OF WATER RESOURCES

1999 POINT OF DELIVERY AGREEMENT AMONG
THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA,
ALAMEDA COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT, ZONE 7
AND
KERN COUNTY WATER AGENCY

THIS AGREEMENT is made this 3rd day of March, 2000
1999,

pursuant to the provisions of the California Water Resources Development Bond Act and other applicable laws of the State of California, among the State of California, acting by and through its Department of Water Resources, herein referred to as the "STATE;" the Kern County Water Agency, herein referred to as the "AGENCY," a political subdivision of the State of California created by an Act of the California State Legislature (Statutes 1961, Chapter 1003 or as amended); and the Alameda County Flood Control and Water Conservation District, Zone 7, herein referred to as the "DISTRICT."

RECITALS

- A. The DISTRICT has entered into an agreement with the Semitropic Water Storage District, herein referred to as "Semitropic," a member unit of the AGENCY, entitled "Agreement Between Alameda County Flood Control and Water Conservation District, Zone 7 and Semitropic Water Storage District and its Improvement Districts for a Zone 7-Semitropic Water Banking and Exchange Program," dated January 28, 1998, herein referred to as the "Zone 7/ST Banking Program Agreement." Said agreement contains terms and conditions governing the storage and recovery of the DISTRICT's water in the existing and operational groundwater basin within Semitropic.



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CONTRACT BETWEEN
ZONE 7 OF ALAMEDA COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT AND DUBLIN SAN RAMON SERVICES DISTRICT
FOR A MUNICIPAL & INDUSTRIAL WATER SUPPLY

THIS CONTRACT, made and entered into this 23rd day of August, 1994, by and between ZONE 7 OF ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, commonly known as the Zone 7 Water Agency, hereinafter referred to as "Zone 7" and the DUBLIN SAN RAMON SERVICES DISTRICT, hereinafter referred to as "Contractor."

W I T N E S S E T H:

For and in consideration of the terms and conditions herein contained, Zone 7 agrees to furnish and provide a water supply to Contractor, and Contractor agrees to purchase and accept such water supply consistent with the provisions herein.

A. INTRODUCTORY PROVISIONS

1. Definitions

When used in this contract, the following terms shall have the meanings hereinafter set forth:

- a. "Board" shall mean the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District.
- b. "Each Contractor" or "Other Contractor" shall mean any entity, public or private, contracting with Zone 7 for a Municipal & Industrial Water Supply.
- c. "Extract," "Extraction" or "Extracting" shall mean obtaining groundwater, by pumping or any other means, from wells, shafts, tunnels, excavations or other sources of such groundwater, for domestic, municipal, irrigation, industrial or other use.



- j. "Recycled Water" shall mean wastewater treated for reuse as permitted by the California Department of Health Services, the Regional Water Quality Control Board and other agencies that from time to time may have jurisdiction.
- k. "Safe Yield" shall mean the quantity of water that can be successfully extracted from the Main Basin on an annual basis over an extended number of years without reducing groundwater storage. Such safe yield is the net quantity of groundwater added to the Main Basin by stream percolation (including percolation from stream releases required for prior water rights), rainfall percolation, applied irrigation water percolation, and net subsurface inflow.
- l. "Treated Water" shall mean water that is processed as necessary to comply with drinking water requirements of the California Department of Health Services, the United States Environmental Protection Agency and other agencies that from time to time may have jurisdiction.
- m. "Turnout Facilities" shall mean the facilities required to provide treated water deliveries from Zone 7's water system to the Contractor's water system. See Exhibit B for a schematic of a typical turnout facility.
- n. "Zone 7 Boundary" shall mean the boundary of Zone 7 as shown on Exhibit C and as may be revised from time to time.
2. Term of Contract
This contract shall become fully effective upon execution of the duly authorized signatures of the parties hereto and shall remain in effect for a period of thirty (30) years from

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extraction of its Groundwater Pumping Quota or from purchase from Zone 7, except for any one or more of the following:

- (a) The water received is for fire flow or fire storage requirements or other emergency purposes;
- (b) The water delivered through Zone 7's turnout facility does not comply with drinking water requirements of California Department of Health Services, United States Environmental Protection Agency, or successor regulatory agencies. The quantity of water obtained shall be limited to that necessary to meet Contractor's treated water needs as a result of Zone 7's non-compliance with said drinking water requirements;
- (c) Zone 7 is unable to deliver the quantity of treated water necessary to satisfy the requirements of Contractor. Zone 7 shall specify the quantity of treated water that it cannot deliver and the time period for which it cannot satisfy the Contractor's requirements. Contractor is otherwise obligated to secure all water from Zone 7 to the extent Zone 7 can provide it;
- (d) Zone 7 is able to meet Contractor's water delivery request, and Contractor has paid Zone 7 for obligated fixed costs of Zone 7 associated with the quantity of water the Contractor will obtain from Other Sources. These obligated fixed costs shall include but are not limited to water facility improvements, water contract obligations, and debt service thereto incurred by Zone 7 in supplying water that would have gone to the Contractor, and for which said costs would have been recovered through the sale of said water to Contractor. The Contractor shall obtain the prior written approval from the Board which approval shall not be unreasonably withheld;

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7. Turnout Facilities

- a. Turnout facilities shall be constructed at the general location requested by Contractor. The exact location shall be determined by Zone 7 after consultation with Contractor. Turnout facilities shall be designed and/or constructed either by Zone 7 or by Contractor (upon the written approval of Zone 7) based on the ranges of flow set forth in Section 9. Turnout facilities shall include the necessary valves, piping, meter and recording equipment, vaults, telemetry equipment and any other appurtenances necessary to meet the standards and operational needs of Zone 7. Zone 7 shall submit its design of new turnout facilities to contractor for review and written approval.
- b. Contractor shall reimburse Zone 7 for all costs incurred by Zone 7 related to the new turnout facilities including but not limited to design, engineering, design review, construction, right-of-way and acquisition thereof, inspection, and contract administration. Contractor shall also pay all costs for the installation of all associated landscaping and recognizes that Zone 7 shall not be responsible for maintenance of landscaping under the terms and conditions of this contract. Contractor further agrees to grant or cause to be granted to Zone 7 the necessary permanent right-of-way and right of ingress thereto and egress therefrom, as determined by Zone 7, for the purposes of constructing, operating and maintaining said turnout facilities.
- c. Zone 7 shall install the nozzle outlet portion of all turnout facilities requested by Contractor prior to the construction of the transmission pipeline. For turnout facilities requested by Contractor subsequent to the construction of Zone 7's transmission pipeline, Contractor shall pay for the nozzle outlet portion of the

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the following information for each turnout facility prior to the design of such facilities:

- (1) Anticipated ultimate (future) maximum flow rate,
- (2) Anticipated present design range of flow rates. (The maximum design flow rate shall not exceed ten (10) times the minimum design flow rate for this range in normal installations.)
- (3) Anticipated pressure ranges for (1) and (2) above on the Contractor's side of the turnout facility.

b. Zone 7 shall design the metering and/or recording installation for the range set forth in accordance with Subsections (2) and (3) above with provisions for future modifications in accordance with a range based on Subsections (1) and (3) above.

c. Contractor shall regulate the flow demands through the turnout facility such that the range of flow rates set forth in accordance with Subsection b above will be maintained insofar as such regulation is reasonable and practicable. Zone 7 shall make modification of the metering and/or recording equipment upon request of Contractor or at such time that the actual flow rate exceeds the maximum design flow rate or is less than the minimum design flow rate; provided, however, that flow rates resulting from emergencies shall not apply to such requirement for modification. Said modification will be at the expense of the Contractor and payment thereof shall be in accordance with Section 27.

10. Delivery Schedule of Municipal & Industrial Water

Each year, the Contractor shall submit in writing to Zone 7 a preliminary water delivery schedule on a form provided by Zone 7 indicating the anticipated quantity of treated water and groundwater in excess of its Groundwater Pumping Quota required by Contractor during each month of the succeeding

12. Peak Demands

The Zone 7 system is not designed to serve all Contractor's peak demands. As water demands increase, it may be necessary to curtail peak deliveries to conform to Zone 7 system capacity as it exists from time to time. However, so long as water and line capacity are available, Zone 7 will endeavor to meet all reasonable demands for peak deliveries and will use reasonable diligence to provide a regular and uninterrupted supply of water from its turnout facility, but shall not be liable to Contractor for damages, breach of contract, or otherwise, for failure, suspension, diminution, or other variations of service occasioned by any cause beyond the control of, or without the fault or negligence of Zone 7. Such causes may include, but are not restricted to, acts of God, acts of war, or criminal acts of others, acts of Contractor or Other Contractors, water shortages, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, or failure or breakdown of transmission or other facilities.

13. Curtailment of Delivery During Maintenance Periods

Zone 7 will make all reasonable effort to provide continuous service to Contractor but may schedule to temporarily discontinue or reduce the delivery of water to Contractor for the purpose of necessary investigation, inspection, maintenance, repair or replacement of any of the facilities necessary for the delivery of treated water to Contractor. Zone 7 shall notify Contractor as far in advance as possible of any scheduled discontinuance or reduction and the estimated duration of such discontinuance or reduction. Recognizing that Contractor may rely on Zone 7 for deliveries of water with minimal interruption, particularly during the high water consumption months, Zone 7 shall use its best efforts to make any such discontinuance or reduction in the delivery of water only during the period of November through March. In the event of any discontinuance or reduction in



arising from this contract caused by drought, regulatory constraints, operation of area of origin statutes, or any other cause beyond the control or without the negligence of Zone 7.

15. Suspension of Service

In the event that Contractor shall be delinquent in the payment for water for more than ninety (90) days after the due date (as said due date is defined in Section 28), such delinquency shall be called to the attention of the Board and the Board may, in its discretion and after giving Contractor an opportunity to be heard, order the suspension or reduction of service to Contractor.

C. GROUNDWATER EXTRACTION PROVISIONS

16. Groundwater Pumping from the Main Basin

Zone 7 acknowledges Contractor's right to extract groundwater based on Contractor's historical groundwater extractions and based on the mutually agreed upon limitations in Contractor's original water supply contract with Zone 7. Contractor acknowledges that Zone 7 manages the Main Basin and that Zone 7 recharges, stores, and extracts from the Main Basin as necessary to supply water to Each Contractor. Accordingly, Contractor shall not extract under this agreement, more than 645 acre-feet (210 million gallons), its Groundwater Pumping Quota, from the Main Basin in any calendar year except as follows:

- (a) The Contractor pays Zone 7 a recharge fee for recharging the Main Basin as set forth in Section 17;
- (b) The groundwater extracted is Contractor's accumulated carry-over of its Groundwater Pumping Quota from prior years as provided in Section 18; or



Contractor may carry-over from that calendar year the unextracted portion of Groundwater Pumping Quota for extraction from the Main Basin during subsequent calendar years. Said carry-over or accumulated carry-over shall not exceed 20 percent of the Contractor's Groundwater Pumping Quota. Said carry-over shall not include any Groundwater Pumping Quota waived under the In-Lieu Treated Water provision of Section 19.

19. In-Lieu Treated Water

During periods when sufficient water is available to Zone 7 at reasonable cost and Zone 7 desires to raise or maintain groundwater levels, Zone 7 will offer delivery of treated water at a cost that is less than treated water rates to Contractor in lieu of Contractor extracting groundwater per its Groundwater Pumping Quota. The amount of In-Lieu Treated Water that Contractor may receive shall not exceed its Groundwater Pumping Quota plus any accumulated carry-over or its operational capability to extract said Groundwater Pumping Quota and accumulated carry-over. Zone 7's offer to deliver In-Lieu Treated Water for a given calendar year will be made on or about May 1 of that year, however, said rates may be retroactive for the entire calendar year or other mutually agreed upon portion thereof. Credit or payment for In-Lieu Treated Water will be as provided for under Section 25. Contractor is not required to take or purchase any In-Lieu Treated Water.

Contractor acknowledges that any credits or payments received under Section 25 are received in-lieu of the Contractor's right to extract its Groundwater Pumping Quota, and Contractor agrees that its Groundwater Pumping Quota and any accumulated carry-over shall be reduced by an amount equivalent to the amount of In-Lieu Treated Water delivered by Zone 7 to Contractor for the year in which the delivery is made.

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(excluding any adjudication of the safe yield), as necessary to protect the water supplies for users within Zone 7.

D. CHARGE AND PAYMENT PROVISIONS

23. Rate Schedule

Zone 7 shall charge for water in accordance with a rate schedule for water service, as such rate schedule is established or amended by the Board. The Board shall review the rate schedule and establish a rate schedule for each calendar year period in accordance with the most recent costs and revenues of Zone 7. The Board shall review the rate schedule at the September regular meeting and endeavor to establish the rate schedule at the November regular meeting prior to January 1 of the following calendar year for which the rate schedule is to be effective. The rates, including but not limited to the treated water, in-lieu treated water, meter fee, and recharge fee, to be so established, shall be based on the cost of providing service, and shall not be unreasonable, arbitrary, or discriminatory. In the event the Board fails, in conformity to the preceding schedule, to establish a new rate schedule for any calendar year the rate schedule in effect for the prior calendar year shall be continued in full force and effect until otherwise modified by the Board.

24. Recharge Fee

The recharge fee shall be charged to Contractor in accordance with the rates included in the rate schedule. Contractor shall be invoiced by Zone 7 in accordance with Section 26 at the time in which Contractor exceeds its Groundwater Pumping Quota as provided in Section 17. Section 28 herein shall apply to said charges. The recharge fee shall be based upon Zone 7's costs including but not limited to the cost to purchase or develop the water, as well as the cost to construct, maintain, and operate the facilities needed to

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27. Payment for Turnout Facilities

Prior to commencing with the design of a turnout facility, Contractor shall deposit with Zone 7 an amount of money estimated by Zone 7 to cover all costs to be incurred by Zone 7 for designing said turnout facility or shall request in writing to be invoiced for such design in accordance with Section 26. The option of invoicing Contractor shall be at the sole discretion of Zone 7. Prior to constructing said turnout facility, Contractor shall deposit with Zone 7 an amount of money estimated by Zone 7 to cover all costs to be incurred by Zone 7 for completion of turnout facility or request to be invoiced for such construction in accordance with Section 26. Following completion of the construction of the turnout facility, Zone 7 shall submit to Contractor a statement for the actual costs incurred for completion of the design and construction of said turnout facility as provided in Section 7. The deposit shall be applied to the actual costs incurred by Zone 7, and the appropriate refund or invoicing to Contractor will be made. Contractor shall make payment of any such invoicing to Zone 7 within thirty (30) days of submission of said statement. Zone 7 shall refund any deposit in excess of actual cost within thirty days of Zone 7's determination of said cost. Contractor shall have the right to audit the records of Zone 7 for the purpose of verifying actual costs.

28. Delinquent Payments

In the event that Contractor is delinquent in the payment of invoiced charges for more than thirty (30) days after the due date, delinquent amounts shall accrue at the legal rate of interest commencing on the due date and continuing each month thereafter until payment of both the principal amount of such charges and the interest thereon is paid in full insofar as permitted by law. Unless otherwise determined by law, the legal rate of interest shall be the combined per annum

32. Liabilities

- a. Zone 7 and/or any of its officers, agents or employees shall not be liable for the control, carriage, handling, use, disposal, or distribution of treated water supplied to Contractor by Zone 7, after such water has passed through the turnout facility or for claims of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water beyond said turnout facility. Contractor shall indemnify, save and hold harmless Zone 7 and its officers, agents, and employees from any such damages or claims of damages. Contractor shall further reimburse Zone 7 for costs of repair of Zone 7's facilities and other damages resulting from the operations of Contractor.
- b. Contractor and/or any of its officers, agents, or employees shall not be liable for the control, carriage, handling, use, disposal, or distribution of water prior to such water being delivered through the turnout facility or for claims of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water prior to its delivery to Contractor, excepting, however, claims by Zone 7 for costs of repair to Zone 7's facilities and other damages resulting from the operations of the Contractor. Zone 7 shall indemnify, save and hold harmless the Contractor and its officers, agents, and employees from any such damages or claims of damages, except claims by Zone 7 for costs of repair of Zone 7's facilities and other damages resulting from the operations of Contractor.

The development of the contract has been directed by the Water Contract Renewal Committee with advice from District General Counsel and Special Counsel, Downey Brand. The Committee is referring it to the Board for approval. District Legal Counsel has approved the contract as to form. The contract was approved by the Zone 7 Board at its meeting of August 17, 1994.

Recommendation:

The Technical Services Manager recommends that the Board approve the attached Resolution which authorizes the execution of the contract between the Zone 7 Water Agency and the Dublin San Ramon Services District for a Municipal and Industrial Water Supply.

August 23, 1994

Prepared by BLM

Approved by RAA

may, at its option, set the terms and conditions for a Municipal & Industrial Water Supply.

34. Notices

All notices or other writings in this contract provided to be given or made or sent, or which may be given or made or sent, by one party hereto to another, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered, certified or first class, postage prepaid, and addressed as follows:

To Zone 7: General Manager
Zone 7 Water Agency
5997 Parkside Drive
Pleasanton, CA 94588

To Contractor: General Manager
Dublin San Ramon Services District
7051 Dublin Boulevard
Dublin, CA 94568

The address to which any notice or other writing may be given or made or sent to any party may be changed upon written notice given by such party as provided above.

35. Severability

If any one or more of the terms or conditions set forth in this contract to be performed on the part of Zone 7 or Contractor, or either of them, should be contrary to any provisions of law or contrary to the policy of law to such an extent as to be unenforceable in any court of competent jurisdiction, then such terms or conditions, shall be null and void and shall be deemed severable from the remaining terms or conditions and shall not affect the validity of the remaining provisions of this contract.

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

ZONE NO. 7

RESOLUTION NO. 1689

INTRODUCED BY DIRECTOR FIGUERS

SECONDED BY DIRECTOR KALTHOFF

BE IT RESOLVED that the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District does hereby approve the contract between Zone 7 of Alameda County Flood Control and Water Conservation District and Dublin San Ramon Services District for a municipal and industrial water supply.

BE IT FURTHER RESOLVED that the Chairman of this Board is hereby authorized and directed to execute said contract on behalf of Zone 7 of Alameda County Flood Control and Water Conservation District.

ADOPTED BY THE FOLLOWING VOTE:

AYES: DIRECTORS CONCANNON, FIGUERS, GRECI, KALTHOFF, LAYTON, MARCHAND, SPENCE

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

I certify that the foregoing is a correct copy of a resolution adopted by the Board of Directors of Zone No. 7 of the Alameda County Flood Control and Water Conservation District on AUG 17 1994

ATTEST: _____

IN WITNESS WHEREOF, the parties hereto and have executed this contract on the date and year first above written.

DUBLIN SAN RAMON SERVICES
DISTRICT

ZONE 7 WATER AGENCY

BY *Georgia M. Verkheid*
President, Board of Directors

BY *David W. Layton*
Chairman, Board of Directors

ATTEST:

ATTEST:

BY *Nancy M. Amole*
Secretary

BY *Jim Dixon*
Secretary

APPROVED AS TO FORM:
KELVIN H. BOOTY, JR.,
COUNTY COUNSEL

BY *Kevin M. Butler*
Deputy County Counsel

WHEREAS, on June 7, 1994, by Resolution No. 21-94, the Board of Directors of the Dublin San Ramon Services District authorized and approved a contract between Zone 7 Water Agency and the Dublin San Ramon Services District for a Municipal and Industrial Water Supply; and

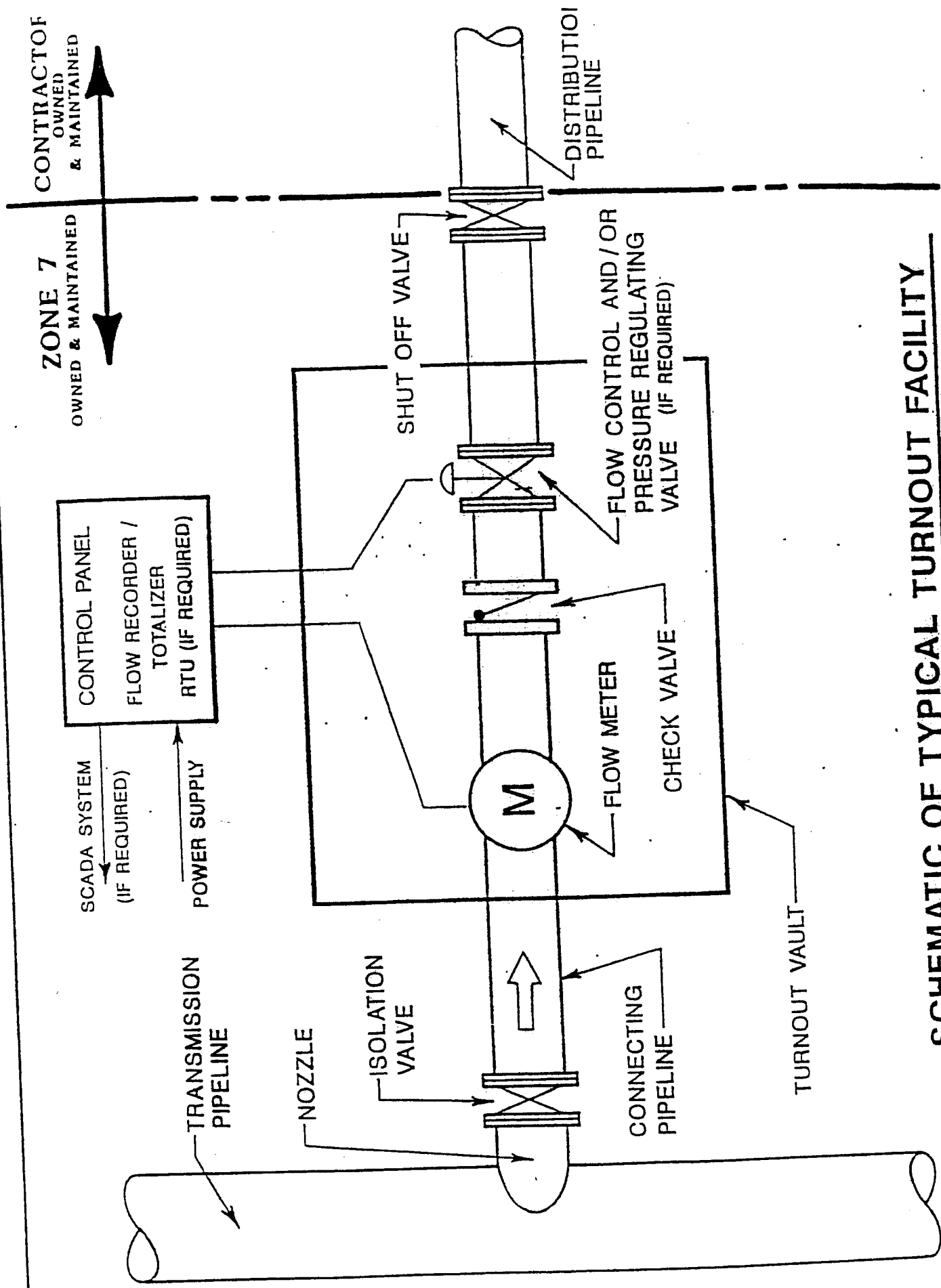
WHEREAS, subsequent to June 7, 1994, the above-referenced contract was modified; and

WHEREAS, on August 17, 1994, the Board of Directors of Zone 7 approved the contract referenced below.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DUBLIN SAN RAMON SERVICES DISTRICT, A PUBLIC AGENCY IN THE COUNTIES OF ALAMEDA AND CONTRA COSTA, CALIFORNIA, AS FOLLOWS:

1. That certain agreement entitled, "Contract Between Zone 7 Water Agency and the Dublin San Ramon Services District for Municipal and Industrial Water Supply", by and between the Dublin San Ramon Services District, a public agency, and the Zone 7 Water Agency, a public agency, providing for a municipal and industrial water supply, a copy of which agreement is attached hereto marked Exhibit "A" and by this reference incorporated herein is hereby approved, and the President and Secretary of this Board are hereby authorized and directed to execute, and attest thereto, respectively, said Agreement for and on behalf of this District.

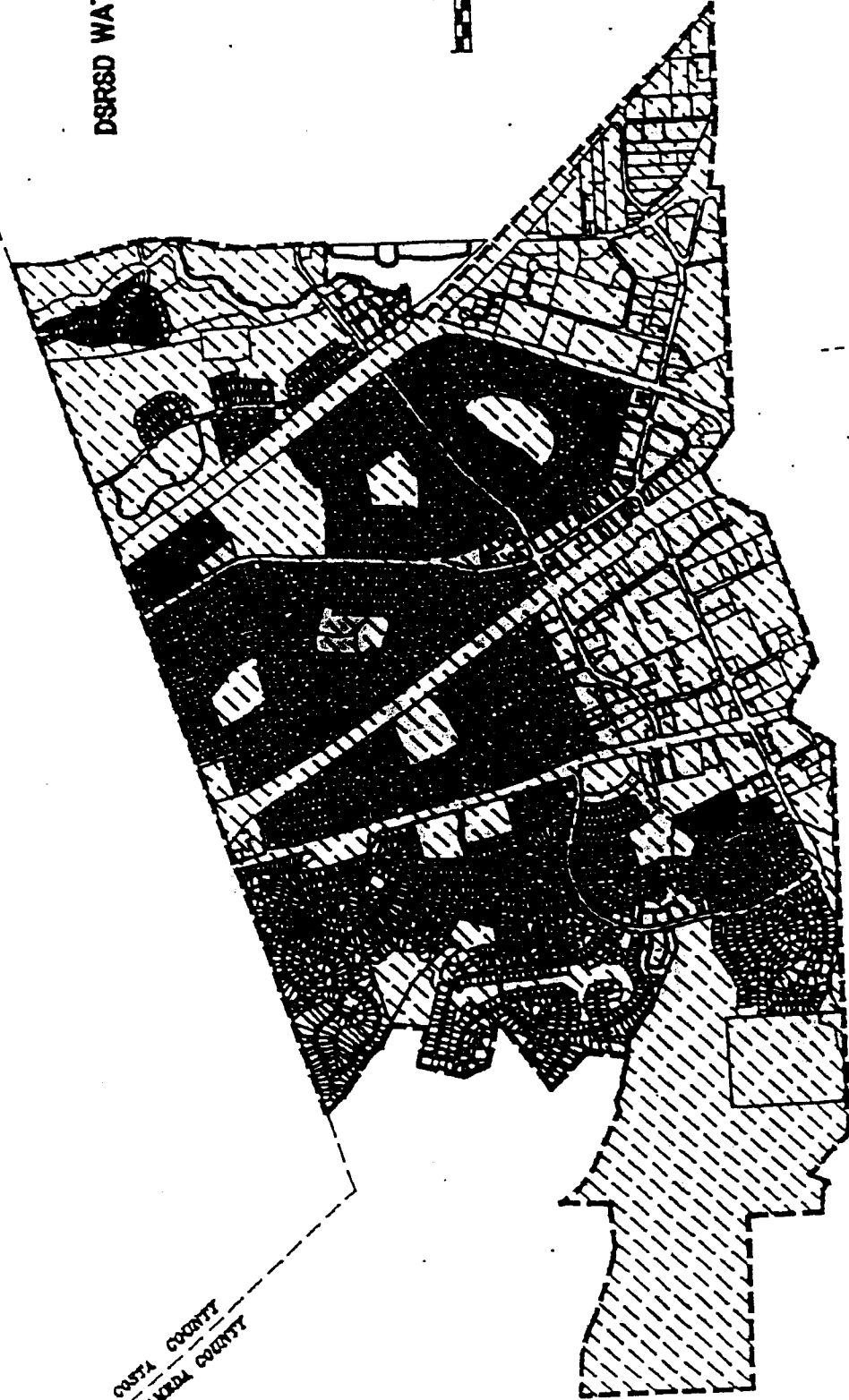
2. The District Secretary is hereby authorized and directed to transmit a certified copy of this Resolution to Zone 7.



SCHEMATIC OF TYPICAL TURNOUT FACILITY

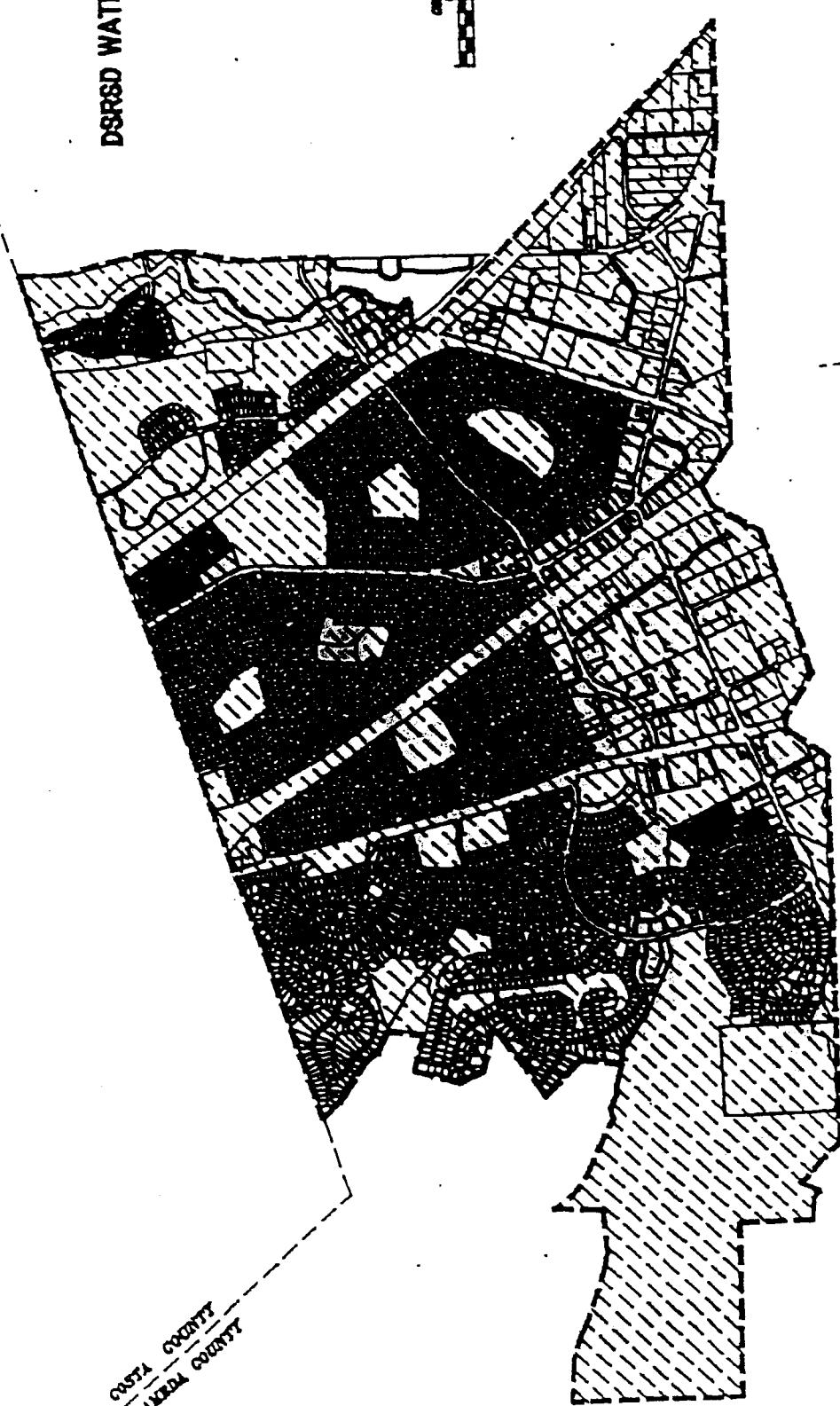
NOT TO SCALE

DSRSD WATER SERVICE AREA



COUNTY
COSTA COUNTY
ALAMOSA COUNTY

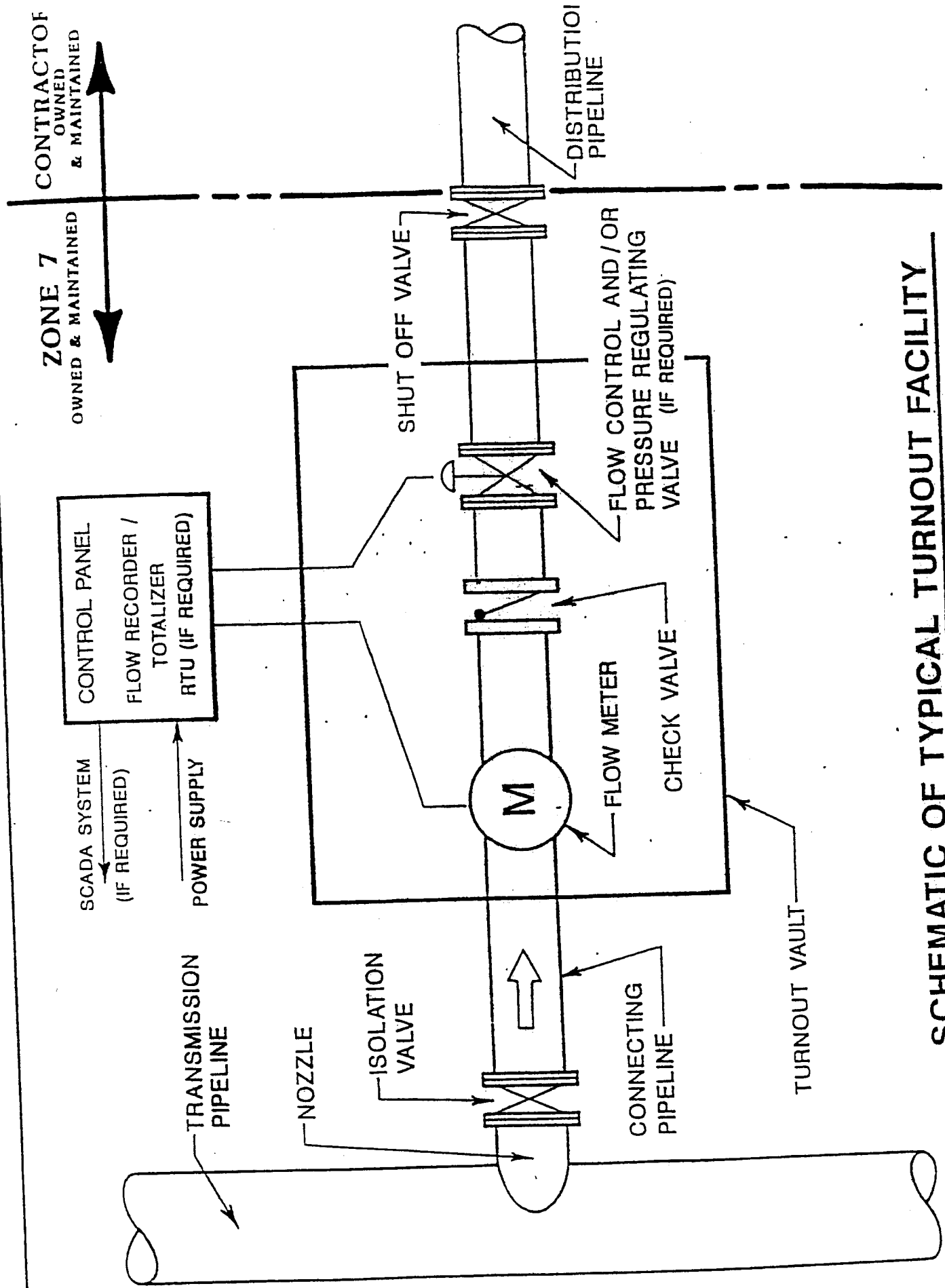
CONTRA COSTA COUNTY
ALAMEDA COUNTY



DSRSD WATER SERVICE AREA



EXHIBIT D



SCHEMATIC OF TYPICAL TURNOUT FACILITY

NOT TO SCALE

WHEREAS, on June 7, 1994, by Resolution No. 21-94, the Board of Directors of the Dublin San Ramon Services District authorized and approved a contract between Zone 7 Water Agency and the Dublin San Ramon Services District for a Municipal and Industrial Water Supply; and

WHEREAS, subsequent to June 7, 1994, the above-referenced contract was modified; and

WHEREAS, on August 17, 1994, the Board of Directors of Zone 7 approved the contract referenced below.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DUBLIN SAN RAMON SERVICES DISTRICT, A PUBLIC AGENCY IN THE COUNTIES OF ALAMEDA AND CONTRA COSTA, CALIFORNIA, AS FOLLOWS:

1. That certain agreement entitled, "Contract Between Zone 7 Water Agency and the Dublin San Ramon Services District for Municipal and Industrial Water Supply", by and between the Dublin San Ramon Services District, a public agency, and the Zone 7 Water Agency, a public agency, providing for a municipal and industrial water supply, a copy of which agreement is attached hereto marked Exhibit "A" and by this reference incorporated herein is hereby approved, and the President and Secretary of this Board are hereby authorized and directed to execute, and attest thereto, respectively, said Agreement for and on behalf of this District.

2. The District Secretary is hereby authorized and directed to transmit a certified copy of this Resolution to Zone 7.

IN WITNESS WHEREOF, the parties hereto and have executed this contract on the date and year first above written.

DUBLIN SAN RAMON SERVICES
DISTRICT

ZONE 7 WATER AGENCY

BY *Georgiana M. Volkried*
President, Board of Directors

BY *David W. Layton*
Chairman, Board of Directors

ATTEST:

BY *Mary J. Amode*
Secretary

ATTEST:

BY *Jim Dixon*
Secretary

APPROVED AS TO FORM:
KELVIN H. BOOTY, JR.,
COUNTY COUNSEL

BY *Mike M. Bala*
Deputy County Counsel

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

ZONE NO. 7

RESOLUTION NO. 1689

INTRODUCED BY DIRECTOR FIGUERS

SECONDED BY DIRECTOR KALTHOFF

BE IT RESOLVED that the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District does hereby approve the contract between Zone 7 of Alameda County Flood Control and Water Conservation District and Dublin San Ramon Services District for a municipal and industrial water supply.

BE IT FURTHER RESOLVED that the Chairman of this Board is hereby authorized and directed to execute said contract on behalf of Zone 7 of Alameda County Flood Control and Water Conservation District.

ADOPTED BY THE FOLLOWING VOTE:

AYES: DIRECTORS CONCANNON, FIGUERS, GRECI, KALTHOFF, LAYTON, MARCHAND, SPENCE

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

I certify that the foregoing is a correct copy of a resolution adopted by the Board of Directors of Zone No. 7 of the Alameda County Flood Control and Water Conservation District on AUG 17 1994

ATTEST: _____

may, at its option, set the terms and conditions for a Municipal & Industrial Water Supply.

34. Notices

All notices or other writings in this contract provided to be given or made or sent, or which may be given or made or sent, by one party hereto to another, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered, certified or first class, postage prepaid, and addressed as follows:

To Zone 7: General Manager
Zone 7 Water Agency
5997 Parkside Drive
Pleasanton, CA 94588

To Contractor: General Manager
Dublin San Ramon Services District
7051 Dublin Boulevard
Dublin, CA 94568

The address to which any notice or other writing may be given or made or sent to any party may be changed upon written notice given by such party as provided above.

35. Severability

If any one or more of the terms or conditions set forth in this contract to be performed on the part of Zone 7 or Contractor, or either of them, should be contrary to any provisions of law or contrary to the policy of law to such an extent as to be unenforceable in any court of competent jurisdiction, then such terms or conditions, shall be null and void and shall be deemed severable from the remaining terms or conditions and shall not affect the validity of the remaining provisions of this contract.

The development of the contract has been directed by the Water Contract Renewal Committee with advice from District General Counsel and Special Counsel, Downey Brand. The Committee is referring it to the Board for approval. District Legal Counsel has approved the contract as to form. The contract was approved by the Zone 7 Board at its meeting of August 17, 1994.

Recommendation:

The Technical Services Manager recommends that the Board approve the attached Resolution which authorizes the execution of the contract between the Zone 7 Water Agency and the Dublin San Ramon Services District for a Municipal and Industrial Water Supply.

August 23, 1994

Prepared by BLM

Approved by RAA

32. Liabilities

- a. Zone 7 and/or any of its officers, agents or employees shall not be liable for the control, carriage, handling, use, disposal, or distribution of treated water supplied to Contractor by Zone 7, after such water has passed through the turnout facility or for claims of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water beyond said turnout facility. Contractor shall indemnify, save and hold harmless Zone 7 and its officers, agents, and employees from any such damages or claims of damages. Contractor shall further reimburse Zone 7 for costs of repair of Zone 7's facilities and other damages resulting from the operations of Contractor.

- b. Contractor and/or any of its officers, agents, or employees shall not be liable for the control, carriage, handling, use, disposal, or distribution of water prior to such water being delivered through the turnout facility or for claims of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water prior to its delivery to Contractor, excepting, however, claims by Zone 7 for costs of repair to Zone 7's facilities and other damages resulting from the operations of the Contractor. Zone 7 shall indemnify, save and hold harmless the Contractor and its officers, agents, and employees from any such damages or claims of damages, except claims by Zone 7 for costs of repair of Zone 7's facilities and other damages resulting from the operations of Contractor.

27. Payment for Turnout Facilities

Prior to commencing with the design of a turnout facility, Contractor shall deposit with Zone 7 an amount of money estimated by Zone 7 to cover all costs to be incurred by Zone 7 for designing said turnout facility or shall request in writing to be invoiced for such design in accordance with Section 26. The option of invoicing Contractor shall be at the sole discretion of Zone 7. Prior to constructing said turnout facility, Contractor shall deposit with Zone 7 an amount of money estimated by Zone 7 to cover all costs to be incurred by Zone 7 for completion of turnout facility or request to be invoiced for such construction in accordance with Section 26. Following completion of the construction of the turnout facility, Zone 7 shall submit to Contractor a statement for the actual costs incurred for completion of the design and construction of said turnout facility as provided in Section 7. The deposit shall be applied to the actual costs incurred by Zone 7, and the appropriate refund or invoicing to Contractor will be made. Contractor shall make payment of any such invoicing to Zone 7 within thirty (30) days of submission of said statement. Zone 7 shall refund any deposit in excess of actual cost within thirty days of Zone 7's determination of said cost. Contractor shall have the right to audit the records of Zone 7 for the purpose of verifying actual costs.

28. Delinquent Payments

In the event that Contractor is delinquent in the payment of invoiced charges for more than thirty (30) days after the due date, delinquent amounts shall accrue at the legal rate of interest commencing on the due date and continuing each month thereafter until payment of both the principal amount of such charges and the interest thereon is paid in full insofar as permitted by law. Unless otherwise determined by law, the legal rate of interest shall be the combined per annum

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(excluding any adjudication of the safe yield), as necessary to protect the water supplies for users within Zone 7.

D. CHARGE AND PAYMENT PROVISIONS

23. Rate Schedule

Zone 7 shall charge for water in accordance with a rate schedule for water service, as such rate schedule is established or amended by the Board. The Board shall review the rate schedule and establish a rate schedule for each calendar year period in accordance with the most recent costs and revenues of Zone 7. The Board shall review the rate schedule at the September regular meeting and endeavor to establish the rate schedule at the November regular meeting prior to January 1 of the following calendar year for which the rate schedule is to be effective. The rates, including but not limited to the treated water, in-lieu treated water, meter fee, and recharge fee, to be so established, shall be based on the cost of providing service, and shall not be unreasonable, arbitrary, or discriminatory. In the event the Board fails, in conformity to the preceding schedule, to establish a new rate schedule for any calendar year the rate schedule in effect for the prior calendar year shall be continued in full force and effect until otherwise modified by the Board.

24. Recharge Fee

The recharge fee shall be charged to Contractor in accordance with the rates included in the rate schedule. Contractor shall be invoiced by Zone 7 in accordance with Section 26 at the time in which Contractor exceeds its Groundwater Pumping Quota as provided in Section 17. Section 28 herein shall apply to said charges. The recharge fee shall be based upon Zone 7's costs including but not limited to the cost to purchase or develop the water, as well as the cost to construct, maintain, and operate the facilities needed to

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Contractor may carry-over from that calendar year the unextracted portion of Groundwater Pumping Quota for extraction from the Main Basin during subsequent calendar years. Said carry-over or accumulated carry-over shall not exceed 20 percent of the Contractor's Groundwater Pumping Quota. Said carry-over shall not include any Groundwater Pumping Quota waived under the In-Lieu Treated Water provision of Section 19.

19. In-Lieu Treated Water

During periods when sufficient water is available to Zone 7 at reasonable cost and Zone 7 desires to raise or maintain groundwater levels, Zone 7 will offer delivery of treated water at a cost that is less than treated water rates to Contractor in lieu of Contractor extracting groundwater per its Groundwater Pumping Quota. The amount of In-Lieu Treated Water that Contractor may receive shall not exceed its Groundwater Pumping Quota plus any accumulated carry-over or its operational capability to extract said Groundwater Pumping Quota and accumulated carry-over. Zone 7's offer to deliver In-Lieu Treated Water for a given calendar year will be made on or about May 1 of that year, however, said rates may be retroactive for the entire calendar year or other mutually agreed upon portion thereof. Credit or payment for In-Lieu Treated Water will be as provided for under Section 25. Contractor is not required to take or purchase any In-Lieu Treated Water.

Contractor acknowledges that any credits or payments received under Section 25 are received in-lieu of the Contractor's right to extract its Groundwater Pumping Quota, and Contractor agrees that its Groundwater Pumping Quota and any accumulated carry-over shall be reduced by an amount equivalent to the amount of In-Lieu Treated Water delivered by Zone 7 to Contractor for the year in which the delivery is made.



arising from this contract caused by drought, regulatory constraints, operation of area of origin statutes, or any other cause beyond the control or without the negligence of Zone 7.

15. Suspension of Service

In the event that Contractor shall be delinquent in the payment for water for more than ninety (90) days after the due date (as said due date is defined in Section 28), such delinquency shall be called to the attention of the Board and the Board may, in its discretion and after giving Contractor an opportunity to be heard, order the suspension or reduction of service to Contractor.

C. GROUNDWATER EXTRACTION PROVISIONS

16. Groundwater Pumping from the Main Basin

Zone 7 acknowledges Contractor's right to extract groundwater based on Contractor's historical groundwater extractions and based on the mutually agreed upon limitations in Contractor's original water supply contract with Zone 7. Contractor acknowledges that Zone 7 manages the Main Basin and that Zone 7 recharges, stores, and extracts from the Main Basin as necessary to supply water to Each Contractor. Accordingly, Contractor shall not extract under this agreement, more than 645 acre-feet (210 million gallons), its Groundwater Pumping Quota, from the Main Basin in any calendar year except as follows:

- (a) The Contractor pays Zone 7 a recharge fee for recharging the Main Basin as set forth in Section 17;
- (b) The groundwater extracted is Contractor's accumulated carry-over of its Groundwater Pumping Quota from prior years as provided in Section 18; or



12. Peak Demands

The Zone 7 system is not designed to serve all Contractor's peak demands. As water demands increase, it may be necessary to curtail peak deliveries to conform to Zone 7 system capacity as it exists from time to time. However, so long as water and line capacity are available, Zone 7 will endeavor to meet all reasonable demands for peak deliveries and will use reasonable diligence to provide a regular and uninterrupted supply of water from its turnout facility, but shall not be liable to Contractor for damages, breach of contract, or otherwise, for failure, suspension, diminution, or other variations of service occasioned by any cause beyond the control of, or without the fault or negligence of Zone 7. Such causes may include, but are not restricted to, acts of God, acts of war, or criminal acts of others, acts of Contractor or Other Contractors, water shortages, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, or failure or breakdown of transmission or other facilities.

13. Curtailment of Delivery During Maintenance Periods

Zone 7 will make all reasonable effort to provide continuous service to Contractor but may schedule to temporarily discontinue or reduce the delivery of water to Contractor for the purpose of necessary investigation, inspection, maintenance, repair or replacement of any of the facilities necessary for the delivery of treated water to Contractor. Zone 7 shall notify Contractor as far in advance as possible of any scheduled discontinuance or reduction and the estimated duration of such discontinuance or reduction. Recognizing that Contractor may rely on Zone 7 for deliveries of water with minimal interruption, particularly during the high water consumption months, Zone 7 shall use its best efforts to make any such discontinuance or reduction in the delivery of water only during the period of November through March. In the event of any discontinuance or reduction in



the following information for each turnout facility prior to the design of such facilities:

- (1) Anticipated ultimate (future) maximum flow rate,
- (2) Anticipated present design range of flow rates. (The maximum design flow rate shall not exceed ten (10) times the minimum design flow rate for this range in normal installations.)
- (3) Anticipated pressure ranges for (1) and (2) above on the Contractor's side of the turnout facility.

b. Zone 7 shall design the metering and/or recording installation for the range set forth in accordance with Subsections (2) and (3) above with provisions for future modifications in accordance with a range based on Subsections (1) and (3) above.

c. Contractor shall regulate the flow demands through the turnout facility such that the range of flow rates set forth in accordance with Subsection b above will be maintained insofar as such regulation is reasonable and practicable. Zone 7 shall make modification of the metering and/or recording equipment upon request of Contractor or at such time that the actual flow rate exceeds the maximum design flow rate or is less than the minimum design flow rate; provided, however, that flow rates resulting from emergencies shall not apply to such requirement for modification. Said modification will be at the expense of the Contractor and payment thereof shall be in accordance with Section 27.

10. Delivery Schedule of Municipal & Industrial Water

Each year, the Contractor shall submit in writing to Zone 7 a preliminary water delivery schedule on a form provided by Zone 7 indicating the anticipated quantity of treated water and groundwater in excess of its Groundwater Pumping Quota required by Contractor during each month of the succeeding

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7. Turnout Facilities

- a. Turnout facilities shall be constructed at the general location requested by Contractor. The exact location shall be determined by Zone 7 after consultation with Contractor. Turnout facilities shall be designed and/or constructed either by Zone 7 or by Contractor (upon the written approval of Zone 7) based on the ranges of flow set forth in Section 9. Turnout facilities shall include the necessary valves, piping, meter and recording equipment, vaults, telemetry equipment and any other appurtenances necessary to meet the standards and operational needs of Zone 7. Zone 7 shall submit its design of new turnout facilities to contractor for review and written approval.
- b. Contractor shall reimburse Zone 7 for all costs incurred by Zone 7 related to the new turnout facilities including but not limited to design, engineering, design review, construction, right-of-way and acquisition thereof, inspection, and contract administration. Contractor shall also pay all costs for the installation of all associated landscaping and recognizes that Zone 7 shall not be responsible for maintenance of landscaping under the terms and conditions of this contract. Contractor further agrees to grant or cause to be granted to Zone 7 the necessary permanent right-of-way and right of ingress thereto and egress therefrom, as determined by Zone 7, for the purposes of constructing, operating and maintaining said turnout facilities.
- c. Zone 7 shall install the nozzle outlet portion of all turnout facilities requested by Contractor prior to the construction of the transmission pipeline. For turnout facilities requested by Contractor subsequent to the construction of Zone 7's transmission pipeline, Contractor shall pay for the nozzle outlet portion of the

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extraction of its Groundwater Pumping Quota or from purchase from Zone 7, except for any one or more of the following:

- (a) The water received is for fire flow or fire storage requirements or other emergency purposes;
- (b) The water delivered through Zone 7's turnout facility does not comply with drinking water requirements of California Department of Health Services, United States Environmental Protection Agency, or successor regulatory agencies. The quantity of water obtained shall be limited to that necessary to meet Contractor's treated water needs as a result of Zone 7's non-compliance with said drinking water requirements;
- (c) Zone 7 is unable to deliver the quantity of treated water necessary to satisfy the requirements of Contractor. Zone 7 shall specify the quantity of treated water that it cannot deliver and the time period for which it cannot satisfy the Contractor's requirements. Contractor is otherwise obligated to secure all water from Zone 7 to the extent Zone 7 can provide it;
- (d) Zone 7 is able to meet Contractor's water delivery request, and Contractor has paid Zone 7 for obligated fixed costs of Zone 7 associated with the quantity of water the Contractor will obtain from Other Sources. These obligated fixed costs shall include but are not limited to water facility improvements, water contract obligations, and debt service thereto incurred by Zone 7 in supplying water that would have gone to the Contractor, and for which said costs would have been recovered through the sale of said water to Contractor. The Contractor shall obtain the prior written approval from the Board which approval shall not be unreasonably withheld;

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- j. "Recycled Water" shall mean wastewater treated for reuse as permitted by the California Department of Health Services, the Regional Water Quality Control Board and other agencies that from time to time may have jurisdiction.
- k. "Safe Yield" shall mean the quantity of water that can be successfully extracted from the Main Basin on an annual basis over an extended number of years without reducing groundwater storage. Such safe yield is the net quantity of groundwater added to the Main Basin by stream percolation (including percolation from stream releases required for prior water rights), rainfall percolation, applied irrigation water percolation, and net subsurface inflow.
- l. "Treated Water" shall mean water that is processed as necessary to comply with drinking water requirements of the California Department of Health Services, the United States Environmental Protection Agency and other agencies that from time to time may have jurisdiction.
- m. "Turnout Facilities" shall mean the facilities required to provide treated water deliveries from Zone 7's water system to the Contractor's water system. See Exhibit B for a schematic of a typical turnout facility.
- n. "Zone 7 Boundary" shall mean the boundary of Zone 7 as shown on Exhibit C and as may be revised from time to time.

2. Term of Contract

This contract shall become fully effective upon execution of the duly authorized signatures of the parties hereto and shall remain in effect for a period of thirty (30) years from

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CONTRACT BETWEEN
ZONE 7 OF ALAMEDA COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT AND DUBLIN SAN RAMON SERVICES DISTRICT
FOR A MUNICIPAL & INDUSTRIAL WATER SUPPLY

THIS CONTRACT, made and entered into this 23rd day of August, 1994, by and between ZONE 7 OF ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, commonly known as the Zone 7 Water Agency, hereinafter referred to as "Zone 7" and the DUBLIN SAN RAMON SERVICES DISTRICT, hereinafter referred to as "Contractor."

W I T N E S S E T H:

For and in consideration of the terms and conditions herein contained, Zone 7 agrees to furnish and provide a water supply to Contractor, and Contractor agrees to purchase and accept such water supply consistent with the provisions herein.

A. INTRODUCTORY PROVISIONS

1. Definitions

When used in this contract, the following terms shall have the meanings hereinafter set forth:

- a. "Board" shall mean the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District.
- b. "Each Contractor" or "Other Contractor" shall mean any entity, public or private, contracting with Zone 7 for a Municipal & Industrial Water Supply.
- c. "Extract," "Extraction" or "Extracting" shall mean obtaining groundwater, by pumping or any other means, from wells, shafts, tunnels, excavations or other sources of such groundwater, for domestic, municipal, irrigation, industrial or other use.

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State of California
The Resources Agency
DEPARTMENT OF WATER RESOURCES

1999 POINT OF DELIVERY AGREEMENT AMONG
THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA,
ALAMEDA COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT, ZONE 7
AND
KERN COUNTY WATER AGENCY

THIS AGREEMENT is made this 3rd day of March, ²⁰⁰⁰~~1999~~,

pursuant to the provisions of the California Water Resources Development Bond Act and other applicable laws of the State of California, among the State of California, acting by and through its Department of Water Resources, herein referred to as the "STATE;" the Kern County Water Agency, herein referred to as the "AGENCY," a political subdivision of the State of California created by an Act of the California State Legislature (Statutes 1961, Chapter 1003 or as amended); and the Alameda County Flood Control and Water Conservation District, Zone 7, herein referred to as the "DISTRICT."

RECITALS

- A. The DISTRICT has entered into an agreement with the Semitropic Water Storage District, herein referred to as "Semitropic," a member unit of the AGENCY, entitled "Agreement Between Alameda County Flood Control and Water Conservation District, Zone 7 and Semitropic Water Storage District and its Improvement Districts for a Zone 7-Semitropic Water Banking and Exchange Program," dated January 28, 1998, herein referred to as the "Zone 7/ST Banking Program Agreement." Said agreement contains terms and conditions governing the storage and recovery of the DISTRICT's water in the existing and operational groundwater basin within Semitropic.

AGREEMENT

The STATE approves delivery of a portion of the DISTRICT's 1999 SWP entitlement water, interruptible water and other water supplies for storage and later recovery in the groundwater basin(s) within the AGENCY in accordance with the Zone 7/ST Banking Program Agreement and under the following terms and conditions:

1. TERM

This Agreement shall become effective upon execution by all of the Parties. The delivery of water for storage in the groundwater basin(s) within the AGENCY under this Agreement shall be completed by December 31, 1999. This Agreement shall terminate with the delivery of all return water to the DISTRICT under this Agreement or December 31, 2035, whichever comes first, unless the Zone 7/ST Banking Program Agreement is fully terminated. In that event, this Agreement will be terminated on the same date as the termination of the Zone 7/ST Banking Program Agreement.

2. USE OF STORED WATER

SWP water delivered by the STATE on behalf of the DISTRICT under this Agreement will not be sold to the AGENCY but will be temporarily stored for later delivery to the DISTRICT's service area. The specific provisions for storage and recovery of the DISTRICT's water within the AGENCY are governed by the Zone 7/ST Banking Program Agreement. Article 4 of the Zone 7/ST Banking Program Agreement provides that 90 percent of the DISTRICT's water delivered to Semitropic for storage will be recoverable by the DISTRICT for use in its service area in future years unless it is determined that actual losses are different than the assumed 10 percent.

annual entitlement deliveries do not exceed quantities on which the Proportionate Use-of-Facilities factors are based pursuant to its long-term Water Supply Contract with the STATE, unless the STATE determines that the deliveries will not adversely impact entitlement deliveries to SWP contractors or adversely impact SWP operations or facilities. The STATE shall not be obligated to convey storage or return water at times when such delivery would adversely impact SWP operations or facilities, other SWP contractors' water deliveries or costs, or delivery of SWP entitlement or other water supplies to the AGENCY.

- b. Delivery Schedules for Stored Water: As part of coordinating delivery schedules with the AGENCY, the DISTRICT shall submit a delivery schedule which shall include but not necessarily be limited to amounts, times, rates of delivery, and points of delivery to the AGENCY for review and approval. The AGENCY shall review the proposed schedule with the DISTRICT and as promptly as possible shall inform the DISTRICT of its decision to either approve, propose modifications, or withhold approval. The AGENCY agrees that it shall not arbitrarily withhold approval or propose unreasonable modifications. The AGENCY may deny approval of, or propose modification to, the DISTRICT's deliveries under this Agreement if, on the basis of a with and without analysis, the AGENCY determines that such deliveries would adversely impact the AGENCY's water management activities, finances, water supply or operations, and the DISTRICT does not agree to mitigate for such impacts. The base case (without analysis) shall be those conditions estimated to occur in the absence of the Zone 7/ST

6. RETURN WATER DELIVERED INTO AQUEDUCT

Return water pumped from the groundwater basin(s) within the AGENCY and returned to the California Aqueduct on behalf of the DISTRICT shall meet the STATE's water quality standards in effect when water is returned. Any turn-in facility used to return water to the Aqueduct must be authorized by a separate agreement with the STATE such as the Semitropic Turn-in Agreement.

7. STORED/RETURN WATER RECORDS

The DISTRICT shall certify to the STATE's State Water Project Analysis Office by January 31, 2000, the following information for 1999:

- a. The quantity of water delivered and stored under this Agreement.
- b. The quantity of stored water under this Agreement that will be available for return to the DISTRICT.

The STATE will maintain monthly records accounting for the delivery of the DISTRICT's SWP entitlement water and other water supplies delivered pursuant to this Agreement for storage in the groundwater basin(s) within the AGENCY and return water delivered from the AGENCY to the DISTRICT.

8. CHARGES AND CREDITS

The DISTRICT and AGENCY shall pay the following charges and/or receive the following credits, including all future adjustments, which shall be calculated in the same manner as charges and credits are calculated for SWP entitlement water deliveries and shall be in accordance with the provisions of the DISTRICT's and AGENCY's long-term Water Supply Contracts with the STATE. Charges shall be determined for the year the water is stored

California Aqueduct, the pumpback water becomes available as part of the SWP supplies, and the AGENCY will not be charged for power resources for the pumpback water. As part of the SWP supply, the pumpback water will be subject to charges for power resources as though the water were conveyed from the Delta.

4. The power resources payment for Banks and Dos Amigos pumping plants under Paragraphs 8(b)(2) and 8(b)(3) above will be used to credit the DISTRICT.
- c. In addition to the charges identified above, the DISTRICT agrees to pay to the STATE any identified increase in non-power costs, as described in Article 56(c)(6) of the DISTRICT's long-term Water Supply Contract with the STATE, that would otherwise be borne by the SWP contractors not signatory to this Agreement or by the STATE as a result of activities pursuant to this Agreement.
- d. Payment terms shall be in accordance with the DISTRICT's and AGENCY's long-term water supply contracts with the STATE.
- e. Currently the Monterey Amendment Water Operations Workgroup is discussing policy issues related to storage programs such as the one proposed in this Agreement. If there is a change in policy requiring a contractor to pay a Use-of-Facilities charge for receiving conveyance service through reaches of the California Aqueduct not included in that contractor's Table B, the STATE may retroactively charge the DISTRICT for the Use-of-Facilities charge due in conjunction with the conveyance of the water under this Agreement.

the DISTRICT dated November 20, 1961, as both are amended up to and including the date of this Agreement.

12. CLAIMS DISPUTE

In the event of dispute regarding interpretation or implementation of this Agreement, the Director of the Department of Water Resources and general managers of the DISTRICT and the AGENCY shall endeavor to resolve the dispute by meeting within 30 days after the request of a Party to this Agreement. If the dispute is unresolved, the Parties to this Agreement shall use the service of a mutually acceptable consultant in an effort to resolve the dispute. The fees and expenses of the consultant shall be shared equally by the Parties involved in the dispute. If a consultant cannot be agreed upon, or if the consultant's recommendations are not acceptable to the Parties, and unless the Parties otherwise agree, the matter may be resolved by litigation and any Party may at its option pursue any available legal remedy, including but not limited to, injunctive, and other equitable relief.

13. ASSIGNMENT OF AGREEMENT

Without the written consent of the STATE, AGENCY and DISTRICT, this Agreement shall not be assignable by the AGENCY or the DISTRICT in whole or in part.

14. MODIFICATION OF AGREEMENT

No modification of the terms of this Agreement shall be valid unless made in writing and signed by the Parties to this Agreement.

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